

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

BUNKEY JOHN BOWMAN

§

VS.

§

CIVIL ACTION NO. 9:19-CV-228

BRYAN COLLIER, ET AL.

§

**ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ACCEPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Bunkey John Bowman, a prisoner confined at the Eastham Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. § 2000cc, against Bryan Collier and Donald Muniz.

The Court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge. The Magistrate Judge recommends granting defendants' motion to partially dismiss the complaint.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration of all the pleadings and the

relevant case law, the Court concludes that plaintiff's objections lack merit. Plaintiff alleges the magistrate judge erred in recommending dismissal of his claim that prison officials failed to protect him from gang members. However, plaintiff has not demonstrated that either defendant was aware that plaintiff was exposed to a substantial risk of harm from gang members, or that they consciously disregarded the risk. *Farmer v. Brennan*, 511 U.S. 825, 832 (1994).

ORDER

Plaintiff's objections (docket entry #58) are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge (docket entry #54) is **ACCEPTED**. Defendants' motion to partially dismiss the action (docket entry #28) is **GRANTED**. Plaintiff shall be permitted to proceed with his First and Fourteenth Amendment claims and with his claims regarding the denial of his requests to grow a beard for religious purposes.

So ORDERED and SIGNED, Mar 03, 2021.

A handwritten signature in black ink, appearing to read "Ron Clark", is written over a horizontal line.

Ron Clark
Senior Judge